

STATE OF NEW HAMPSHIRE

PROBATE COURT

PROCEDURE BULLETIN 25

A Person Who Claims to be the Father and who has Filed Notice of Claim of Paternity with a Putative Father Registry in the U.S.

This procedure bulletin is prepared for informational purposes in processing case files. It is not intended to provide parties with legal advice.

Background

The purpose of this Procedure Bulletin is to provide guidance for intrastate (child born in New Hampshire) and interstate (child born in the United States but outside of New Hampshire), putative father registry checks for the purpose of notifying alleged fathers of the pending adoption. Note that RSA 170-B:6 provides for other circumstances where court notice to an alleged father may be necessary. This Procedure Bulletin only deals with the circumstances provided for in RSA 170-B:6, I(c).

RSA 170-B:6, I(c) requires that in all intrastate and interstate adoptions (but not international adoptions), the court is required to check with the putative father registry from the state where the child was born (if such a registry exists) in order to provide notice to the father of the child of the pending adoption. The petitioner seeking the adoption is required to provide the court with the contact information for the putative father registry in the state where the child was born. The court would then contact the appropriate registry.

However, the petitioner may complete the necessary form from the state Putative Father Registry where the child was born. The court shall accept these forms and will not be required to check the registry.

The alleged birth father must notify the putative father registry in the state where the child was born prior to the surrender of parental rights by the birth mother or prior to the time the birth mother's parental rights being involuntarily terminated. Court notice will give the putative father, assuming one is identified, 30 days from the date of such court notice to request a hearing. A failure to request a hearing will forever bar the father from asserting his parental rights.

PROCEDURE

Timing

In the circumstances described herein, to preserve his right to claim paternity, the alleged birth father must register or “notify” the putative father registry in the state where the child was born *BEFORE* the birth mother either surrenders or has her parental rights involuntarily terminated.

This should not hold up the birth mother’s surrender. Nor is her surrender contingent on the birth father’s surrender. The notion of a surrender is an individual decision. So long as the birth father has registered with the appropriate putative father registry *BEFORE* the birth mother surrenders, he will have timely preserved his right to Court notice of the adoption proceedings as provided in the statute.

1. Regardless of whether a father is named, the appropriate state putative father registry needs to be contacted. To do this, determine where the child was born.
 - a. If the child was born in New Hampshire, the Court will complete the “Letter to DHHS – Paternity Claim” and send via regular mail to DHHS. The address for DHHS is:

Paternity Unit
Division of Child Support Services
Department of Health and Human Services
129 Pleasant Street
Concord, N.H. 03301
 - b. If the child was born in a state other than New Hampshire, petitioner(s) will complete an interstate adoption putative father registry information form (NHJB-2190-P) and submit it to the Court. The Court will complete the “Request to Putative Father Registry” (in-state or out-of-state) and send via regular mail to the appropriate state putative father registry as provided in the next step.

Notes:

- Not all states have a putative father registry. The Probate Court Administrative Office has prepared a listing of various state putative father registries but it does not represent that this list is complete, accurate or up-to-date. Rather, this list is offered as a starting point for petitioners on the Probate Court’s website under the “Adoptions” section.
- The petitioner(s) should pay any cost associated with the search of another state’s putative father registry.

2. If there is no response to the mailing provided for in step 1.b. above within 30 days, the Court would attempt to telephone that registry and leave a telephone message if necessary. The Court will document the telephone call on the court copy of the letter sent from step 1.b. above. This step is important to document that proper Court notice of the adoption proceeding was diligently attempted. If the registry cannot be contacted or if a definitive answer cannot be obtained, Court staff will bring this fact to the attention of the presiding judge to determine how he or she would like to proceed in order to satisfy due process.
3. If the name and address of the father is contained in the registry, AND the alleged father has registered his intent to claim paternity with the registry BEFORE the birth mother's parental rights have either been surrendered or involuntarily terminated, then send "Notice to Alleged Father" to him via certified mail, return receipt requested, restricted delivery. If the receipt is not returned within 30 days from date the "Notice to Alleged Father" was sent out, then staff should ask the presiding judge how he or she would like to proceed in order to satisfy due process.

Note: If the birth father registered with the putative father registry *AFTER* the birth mother surrendered her parental rights or had her parental rights involuntarily terminated, he is *NOT* entitled to Court notice of the proceedings as provided in RSA 170-B:5.

4. If the child was born in a state where there is no putative father registry, Court staff should seek guidance from the presiding judge as to how he or she would like to proceed in terms of notice in order to satisfy due process. The petitioner(s) will pay any expense associated with the process Ordered by the judge unless such expense is waived by Order of the judge.

Note: In any adoption (whether the child was born in New Hampshire or any other state), the presiding judge has the discretion to order notice as he or she sees fit in order to satisfy due process.

_____/s/ David D. King
Administrative Judge of Probate Court

History:

Revised July 16, 2008

Revised August 1, 2007

Effective January 2, 2005